

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL ACTION NO: 3:05-CV-261-DCK**

SUSAN M. BAUCOM,

Plaintiff,

v.

WESTMINSTER COMPANY, et al.,

Defendants.

ORDER

THIS MATTER IS BEFORE THE COURT *sua sponte*. On January 22, 2007, Defendants filed a “Suggestion of Death Upon The Record Under Rule 25(a)(1)” (Document No. 31). By “Order” on June 19, 2007 (Document No. 32) the undersigned required the parties to file a status report. On July 20, 2007, Defendants filed a “Status Report” (Document No. 34) confirming that Plaintiff Susan M. Baucom died on December 26, 2006 and indicating that her daughter, Kristina Thomas, had expressed interest in continuing this action. Ms. Thomas was copied on the Court’s Order (Document No.32), was served with a copy of Defendants’ “Suggestion of Death Upon the Record Under Rule 25(a)(1),” and was granted a final opportunity by Order (Document No. 35) of this Court to file a motion for substitution. Nevertheless, neither Ms. Thomas nor any other party has moved to be substituted for the Plaintiff Susan M. Baucom in this action.

According to Fed.R.Civ.P. 25(a)(1), if a party dies, a substitution of the proper parties may be ordered by the Court if a motion for substitution is

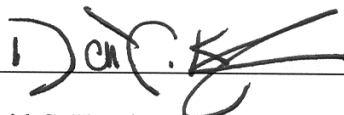
made by any party or by the successors or representatives of the deceased party.... Unless the motion for substitution is made not later than 90 days after the death is suggested upon the record by service of a statement of the fact of the death as provided herein for the

service of the motion, the action shall be dismissed as to the deceased party.

Fed.R.Civ.P. 25(a)(1).

IT IS, THEREFORE, ORDERED that pursuant to Fed.R.Civ.P. 25(a)(1) this action is **DISMISSED** and the Clerk of Court shall immediately close this case.

Signed: August 17, 2007



David C. Keesler
United States Magistrate Judge

